

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
GEORGE WEINTRAUB & SONS, INC.,

Petitioner,

**REQUEST TO ENTER
DEFAULT**

-against-

07-CV-7995(JFK)

FIESTA DISTRIBUTORS, INC.,

Respondent.

-----X
TO: J. MICHAEL McMAHON, CLERK
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Please enter default of Respondent, FIESTA DISTRIBUTORS, INC., pursuant to Rule 55(a) of the Federal Rules of Civil Procedure for failure to plead or otherwise defend the above-captioned action as fully appears from the court file herein and from the attached Affidavit of Lawrence Fechner.

Dated: New York, New York
December 7, 2007

JAFFE, ROSS & LIGHT LLP
Attorneys for Petitioner

By: /s/ Lawrence Fechner
Lawrence Fechner (LF2635)
880 Third Avenue – 15th Floor
New York, New York 10022
(212) 751-1700

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
GEORGE WEINTRAUB & SONS, INC.,

Petitioner,

**AFFIDAVIT FOR JUDGMENT
BY DEFAULT**

-against-

07-CV-7995(JFK)

FIESTA DISTRIBUTORS, INC.,

Respondent.

-----X
STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

Lawrence Fechner, being duly sworn, deposes and says:

1. I am a member of the Bar of this Court and am associated with the firm of Jaffe,
Ross & Light LLP, attorneys for Petitioner in the above-entitled action and I am familiar with all
the facts and circumstances in this action.

2. I make this Affidavit pursuant to Rule 55.1 and 55.2(A) of the Civil Rules for the
Southern District of New York, in support of Petitioner's application for the entry of a default
judgment against Respondent.

3. This is a proceeding to confirm an arbitration award dated April 10, 2007 in favor
of the Petitioner against the Respondent.

4. Jurisdiction of the subject matter of this action is based on Title 9, United States
Code, Section 9.

5. This action was commenced on September 12, 2007 by the filing of the Summons
and Petition. A copy of the Summons and Petition was served on the Respondent on October 16,

2007, by personal service upon the Secretary of State of Texas and proof of service by the Special Process Server was filed. The Respondent has not answered the Petition and the time for the Respondent to answer the Petition has expired.

6. This action seeks judgment for the liquidated amount of \$628,513.13, plus interest in the amount of \$37,496.44 from March 31, 2007, for a total as of December 7, 2007 of \$666,009.57, as shown by the annexed Statement, which is justly due and owing, and no part of which has been paid except as therein set forth.

7. The disbursements sought to be taxed have been made in this action or will necessarily be made herein.

WHEREFORE, Petitioner requests the entry of Default and the entry of the annexed Judgment against Respondent.

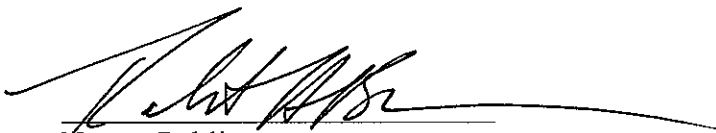
Dated: New York, New York
December 7, 2007

By



Lawrence Fechner

Sworn to before me this 7th
day of December, 2007


Notary Public

ROBERT A. BRUNO
Notary Public, State of New York
No. 30-4783471
Qualified in Nassau County
Commission Expires Jan 31, 2011

STATEMENT

FIRST CONTRACT YEAR	\$150,000.00
SECOND CONTRACT YEAR	\$220,183.00
THIRD CONTRACT YEAR	<u>\$235,670.00</u>
	\$605,853.00
 INTEREST ON FIRST CONTRACT YEAR THROUGH MARCH 31, 2007	 \$12,957.00
INTEREST ON \$605,853.00 THROUGH DECEMBER 7, 2007	\$37,496.44
 ATTORNEYS FEES	 \$3,000.00
ADMINISTRATIVE FEES	\$6,703.13

ALL OF THESE AMOUNTS, WITH THE EXCEPTION OF THE INTEREST OF \$37,496.44, ARE PART OF THE AWARD OF ARBITRATOR (EXHIBIT "F" TO THE PETITION)